

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DEBT CLEANSE GROUP LEGAL
SERVICES, LLC, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

GO TO TECHNOLOGIES USA, INC. and
LASTPASS US LP,

Defendants.

Civil Action No.: 1:22-cv-12047-PBS

JOHN DOE, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

LASTPASS US LP,

Defendant.

Case No.: 1:23-CV-10004-PBS

**DECLARATION OF NICHOLAS A. MIGLIACCIO IN SUPPORT OF
PLAINTIFFS' MOTION TO CONSOLIDATE CASES AND APPOINT
INTERIM CO-LEAD CLASS COUNSEL**

1. I have been an attorney in practice for over twenty years and am counsel of record for Plaintiff John Doe in the above-caption litigation.

2. I have personal knowledge of the facts stated below. If called on to do so, I could and would competently testify thereto.

3. I submit this declaration in support of the motion to consolidate cases pursuant to F.R.C.P. 42 and appoint interim co-lead counsel pursuant to F.R.C.P. 23(g), which is being filed by Plaintiffs' counsel in the above-referenced case.

4. I am one of the founding partners of Migliaccio & Rathod LLP, which is based in Washington D.C. with an office in San Francisco. Before I founded the firm, I was an equity partner at Mason, LLP, in Washington, D.C., and its successor firm Whitfield Bryson & Mason, LLP.

5. With my partner, Jason Rathod, I started our firm in 2016. Since then, M&R has helped secure several significant orders in class and collective action cases. Nearly all of M&R's cases fall in the category of complex civil litigation and include a number of data breach and privacy class actions pending across the country. For example, M&R was recently appointed to serve as interim co-lead class counsel in *In re: Practice Resources, LLC Data Security Breach Litigation*, Case No. 22-CV-0890 (N.D.N.Y.), and on the plaintiffs' steering committee in *In Re: Rutter's Inc. Data Security Breach Litigation*, Case No. 1:20-cv-382 (M.D.

Pa.), *In Re Netgain Technology, LLC, Consumer Data Breach Litigation*, Case No. 21-cv-1210 (SRN/LIB) (D. Minn.), and *In re Eskenazi Health Data Incident Litigation*, No. 49D01-2111-PL-038870 (Ind. Sup. Ct.), which are data breach cases involving customers' and patients' compromised electronically stored sensitive personal information. M&R attorneys also served as interim lead counsel for the Sprint subscriber class in *In re National Security Agency Telecommunications Records Litigation*, Case No. 3:06-md-01791 (N.D. Cal.), which was a privacy suit against telecom companies to enjoin the alleged disclosure to the National Security Agency of telephone calling records.

6. Beyond data breach and privacy cases, M&R has also been appointed as Class Counsel in a number of noteworthy consumer protection, civil rights, environmental contamination, and wage theft cases. *See, e.g., Colgate, et al. v. JUUL*, No. 3:18-cv-02499-WHO (Dkt. 63) (appointing firm, along with one other firm, as interim lead counsel in putative nationwide class action against e-cigarette manufacturer JUUL, prior to formation of multidistrict litigation); *Stillman v. Staples*, Case No. 07-849 (D.N.J.) (served as a member of the trial team where the plaintiffs won a nearly \$2.5 million verdict against Staples for unpaid overtime on behalf of 342 sales managers after a six-week jury trial; after the verdict, nearly a dozen wage and hour cases against Staples from across the country were

consolidated in a multi-district litigation where M&R served in a central role in the consolidated litigation, which lasted nearly two years after the *Stillman* verdict and ultimately settled for \$42 million); *Valsartan N-Nitrosodimethylamine (NDMA) Products Liability Litigation*, MDL Case No: 1:19-md-02875-RBK-JS (D.N.J.) (appointed to the plaintiffs' steering committee and serve as co-chair of the medical monitoring committee in multi-district litigation arising from worldwide recalls of generic Valsartan that had been found to be contaminated with probable human carcinogens); *In re Chevrolet Bolt EV Battery Litigation*, Case No. 2:20-cv-13256-TGB-CI (E.D. Mich.) (appointed to plaintiffs' steering committee representing owners and lessees of Chevy Bolt vehicles alleging that a ubiquitous defect in lithium-batteries used in the electric vehicles risk catching fire).

7. The attorneys at the firm have litigated cases leading to recoveries of hundreds of millions of dollars in recoveries for consumers, workers, and other victims of corporate misconduct. M&R has a track record of investing the time, energy, and resources necessary to develop cases which implicate significant economic, societal, and health concerns. *See, e.g., Hill v. Cty. of Montgomery*, No. 9:14-cv-00933 (BKS/DJS), 2018 U.S. Dist. LEXIS 140305, at *32 (N.D.N.Y. Aug. 20, 2018) (granting class certification in civil rights case and finding M&R adequate to represent the class); *see also McDonald v. Franklin County, Ohio*,

Case No. 2:13-cv-503 (serving as interim co-lead counsel and achieving a multi-million dollar settlement on behalf of the class).

8. M&R also has meaningful trial experience, including class and collective action trials. I have served as a member of the trial team in a six-week collective action wage theft trial that resulted in a \$2.5 million plaintiffs' verdict. In *Helmer v. Goodyear Tire & Rubber Co.*, Civil Action No. 12-cv-00685-RBJMEH (D. Colo. Mar. 21, 2014), my partner, Jason Rathod, served on the trial team and, in connection with that role, deposed a key statistics expert and successfully had his testimony excluded, even though he had testified in dozens of class action cases without limitation. His trial experience prompted the American Association for Justice to select him as a panelist at a nationwide legal education program, *Trying the Class Action: Practical Tips from the Pros*.

9. M&R also brings relevant experience beyond that gained in the courtroom. For example, my partner, Jason Rathod, has published two law review articles about private enforcement and aggregate litigation, one of which was cited in a proposed rule by the Consumer Financial Protection Bureau ("CFPB") to prohibit class action waivers in arbitration agreements in consumer contracts. *See* CFPB, 12 CFR Part 1040, n. 611,

https://files.consumerfinance.gov/f/documents/201707_cfpb_Arbitration-

[Agreements-Rule.pdf](#). Attached hereto as **Exhibit A** is a true and correct copy of the firm resume detailing additional experience.

10. M&R is more than qualified to serve as interim co-lead counsel given its attorneys' wealth of experience successfully prosecuting consumer class actions, including data breach class actions like this one.

11. In fact, M&R has already committed substantial time and resources to organizing and working together toward the advancement of the litigation, investigating and researching the potential legal theories and claims at issue, and researching and reviewing information relating to the factual underpinnings of this litigation (including, but not limited to, the cause of the data breach, Defendant's public statements regarding the events surrounding the data breach, other media commentary, and consumer experiences concerning information compromised in the breach), and intends to continue to expend all time and resources necessary to efficiently and effectively advocate for Plaintiffs and the putative class.

12. M&R has also devoted extensive time researching the relevant law and applying its experience in drafting a detailed complaint, which was filed on January 3, 2023, and assisted in preparing the joint motion to consolidate and working cooperatively with all counsel to finalize it.

13. M&R has also spent significant time speaking with and interviewing many class members who have contacted them, expressed interest in the case, and sought more information about the case and the underlying data breach.

14. Should M&R be appointed interim co-lead counsel, we will work effectively and collaboratively with any other attorneys who may represent any other plaintiffs in this matter in the future, ensuring that we do not duplicate work.

15. For the reasons stated above, I submit that appointment of M&R as interim co-lead counsel would be in the best interests of Plaintiffs and the putative class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 26th day of January 2023 at Washington D.C.

/s/ Nicholas A. Migliaccio
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